

Appl. No. 10/603,525
Preliminary Amdt. dated January 6, 2005

REMARKS/ARGUMENTS

1. Interview with the Examiner.

In an interview with Examiner Palo on December 30, 2004, Examiner Palo indicated to Applicant's Representative (Kevin Erdman) that the claims of the present application, as originally filed, presented double patent concerns relevant to the pending and allowed parent application Ser. No. 10/180,690. Applicant's Representative and Examiner Palo agreed that Applicant would submit a proposed amendment canceling all of the claims of the present application and presenting new claims that avoid the double patenting concerns. A proposed amendment was submitted on January 6, 2005. In a follow up interview with Examiner Palo on January 6, 2005, Examiner Palo indicated that the proposed amended claims avoided a double patenting issue.

2. Amendments to the Claims.

Accordingly, Applicant hereby cancels all of original claims 1-63 and requests entry of new claims 64-78. Claims 64-78 are drawn to a process for cultivating Morchella sclerotia, rather than Morchella ascocarp. Each of claims 64-78 require the step of harvesting the sclerotia by removing the sclerotia prior to the formation of an ascocarp. This step precludes inducing the formation of an ascocarp, which is required in the allowed claims of the parent application and, thus, the practice of the present invention would not conflict with the claims of the parent application. Accordingly, the newly presented claims do not present a double patenting issue. These new claims are fully supported in the present application in paragraph [0040].

CONCLUSION

Applicant respectfully request that the Examiner maintain the Notice of Allowance in the parent case and approve the proposed amendments made herein in the present application.

Applicant believes that no fees are due in connection with this submission, however, if any fees are necessary, please charge Deposit Account No. 02-0390, Baker & Daniels.

Respectfully Submitted,

By: 

Sarah M. Jabbari, Reg. No. 47,679
Baker & Daniels
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204
Phone: (317) 237-0300
Fax: (317) 237-1000
E-mail: smjabbar@bakerd.com